

REMARKS

Claims 1-84 are currently pending in the present application. Claim 1 is amended simply to correct a typographical error. Specifically, a redundant instance of the word “the” is deleted before the article “a.” No new matter is added as a result of the amendments. For at least the reasons below, Applicants respectfully believe the pending application is in condition for allowance.

Telephone Interview Summary

A telephone interview was held on March 11, 2008. Applicants’ attorney requested clarification of the OA with regard to claim limitations that are not specifically addressed in the OA. Specifically, Applicants’ attorney indicated that the following limitations are not addressed in the OA:

the collection identifying a rental package of a predefined quantity of virtual containers at least one of which is configured to identify a plurality of the software products accessible to the set of users

the collection is selected from a plurality of collections, each with a different quantity of virtual containers

For support and an example of the limitations, Applicants’ attorney also referred the Examiner to the specification, including page 13, lines 9-13. The Examiner indicated that experiences with services, such as Netflix™ DVD rentals, disclose the new limitations. Applicants’ attorney noted that the limitations are not disclosed, suggested, or predictable from the cited US patent number 6,584,450 to Hastings et al., which describes the Netflix™ service. The Examiner indicated that Applicants are welcome to submit a response accordingly. The Examiner agreed that a subsequent action, if any, would have to provide sufficient evidence of the new limitations. Accordingly, the Examiner agreed that a subsequent action, if any, would be non-final.

The 35 U.S.C. § 103 rejection of Claims 1-82 over Allan, Bass & Hornbuckle in view of Hastings

Claims 1-82 were rejected under 35 U.S.C. §103(a) as being unpatentable over Allan et al. (U.S. Patent No. 6,526,456, referred to herein as Allan), Bass et al. (U.S. Patent No. 6,744,446, referred to herein as Bass) and Hornbuckle (U.S. Patent No. 5,613,089, referred to herein as Hornbuckle) in view of Hastings et al (U.S. Patent No. 6,584,450, referred to herein as Hastings). Incorporated herein by reference are Applicants' arguments regarding Allan, Bass, and Hornbuckle from all prior responses. Hastings is directed to "a computer-implemented approach for renting items to customers [that] specify what items to rent using item selection criteria separate from deciding when to receive the specified items." Hastings, abstract.

The OA indicates that Hastings discloses the limitations that were added to the claims in Applicants immediately prior amendment filed October 31, 2007 (the "prior amendment"). Applicants respectfully disagree, and note that the OA does not address each independent claim. As indicated in the telephone interview summary, Hastings and the other references do not disclose, suggest, or make predictable, the limitation of: "the collection identifying a rental package of a predefined quantity of virtual containers at least one of which is configured to identify a plurality of the software products accessible to the set of users."

The OA states that "Bass does disclose a virtual container, but he does not explicitly detail that his virtual container comprising of: a priority level, a different rental period duration, and a permission to add or remove a new software product." OA, pg. 4, lines 1-13. However, the OA is silent on the limitation that at least one virtual container is configured to identify a plurality of the software products accessible to the set of users. The OA indicates that Hastings "allows users to add or remove a pre-selected item (or new software) . . ." OA, pg. 4, lines 17-19. The OA also assets that it would have been obvious to modify Bass to include the details of "Hastings (NETFLIX) or BLOCKBUSTER with the motivation of allowing a user to make real world choices as if they were in a physical movie/video/CD rental location." OA, pg. 4, line 21 through pg. 5, line 2. Thus, the OA appears to equate rented movie/video/CDs with the claimed software products. But the OA does not address how

a plurality of movies or software products can be identified by and accessible by the virtual containers of Bass.

Bass does not disclose, suggest, or make predictable that a virtual container of Bass can identify any product, let alone a plurality of software products. Bass discloses that a virtual container "acts like a semi-permanent connection between a first node and a second node which is not physically directly connected to the first node . . ." Bass, col. 1, lines 48-51. Each connection is identified by a transmission capacity. See e.g., Bass, col. 1, lines 36-41. But, Bass does not disclose, suggest, or make predictable that these network connections identify any data that is carried though them. Hastings and the other references do not disclose, suggest, or make predictable, identifying data carried through particular network connections. Thus, there is no basis to modify one of Bass' virtual containers to identify a plurality of the software products accessible to the set of users.

During the telephone interview, the Examiner indicated that one movie rented from the Netflix™ service may be stored on multiple DVD discs. This has nothing to do with network connections, so there is no reason to combine Netflix™ movie rental with Bass' display of a hierarchical telecommunication network, let alone to modify Bass' network connection virtual containers to store a movie on multiple discs. Applicants also respectfully note that no official notice was given of unsupported facts, and Applicants respectfully traverse the use of Examiner's personal knowledge. There is no evidence in the record of the capabilities of the Netflix™ service prior to the priority date of Applicants' application, other than the Hastings reference, which is assigned to Netflix.com, Inc. Thus, evidence regarding Netflix™ should be limited to the Hastings reference, unless other evidence is presented in the record.

Even if a movie is stored on multiple discs, Hastings, or the Netflix™ service do not disclose, suggest, or make predictable, the dual requirements that (1) at least one virtual container is configured to identify a plurality of the software products, and (2) selectively removing a software product and adding a new software product before the end of a rental period associated with the at least one virtual container. Applying these limitations to a movie with two discs, would require removing one of the discs and adding a new disc from a different movie. Thus, discs from different movies

would get mixed up. Clearly, this would render Hastings and the Netflix™ service inoperable, because customers would not received a complete movie.

The claims also require assigning a collection of virtual containers to a set of users, wherein the collection has a number other limitations. One such limitation is that the collection is “selected from a plurality of collections, each with a different quantity of virtual containers.” The OA indicates that Bass discloses assigning virtual containers. See OA, pg. 3, lines 5-8. But the OA does not address the limitation that the collection of virtual containers is selected from a plurality of collections, each with a different quantity of virtual containers. Bass teaches that a network manager assigns virtual containers to links between multiplexers and regenerators in a network. See e.g., Bass, col. 2, line 66 through col. 3, line 47. Not only is Bass opposite to the assignment aspect of the claim limitation, but Bass does not disclose, suggest, or make predictable, assigning a collection of virtual containers, wherein the collection is selected from a plurality of collections. Bass discloses virtual containers with different data transmission capacities. See Bass, col. 1, lines 35-41. But, Bass does not disclose, suggest, or make predictable that a collection of virtual containers is *selected* from a plurality of collections, each with a different quantity of virtual containers. Instead, Bass teaches that a user configures a network “by assigning virtual containers and setting end points.” Bass, col. 3, lines 2-3.

For at least the reasons above, Applicant respectfully requests that the rejection of independent Claims 1, 33, 36, 37, 44, 76, 79, and 82-84 under 35 U.S.C. §103(a) be withdrawn. It is also well established that dependent claims include the limitations of the independent claims from which the dependent claims depend, and are patentable for at least the same reasons as the corresponding independent claims. Accordingly, Applicant respectfully requests that the rejection of dependent Claims 2-32, 34, 35, 38-43, 45-75, 77, 78, 80, and 81 under 35 U.S.C. §103(a) also be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe that this response has responded fully to the concerns expressed in the OA and that each of the pending claims is in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. Although only certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentable. Applicant reserves the right to raise these arguments in the future. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Dated: March 12, 2008

Respectfully submitted,

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